

Civ DJ 13216/16

USHA RANI THROUGH LRS Vs. DEVENDER NATH CHAWLA
THROUGH LRs

23.07.2026

Present: None for plaintiff.

Sh. Aryan Jha, Ld. Proxy counsel for defendant no.1
(through VC).

Sh. H.S. Sharma, Ld. Counsel for LR No.1 to 3 of
defendant no.2 and LR Archana of defendant no.3.

Defendant no.4 and 5 are ex parte.

None for defendant no.6.

No judicial precedents have been filed on behalf of
plaintiff.

Put up for orders at 04:00 PM.

(Sunil Choudhary)
District Judge-01(West)
Tis Hazari Courts, Delhi/23.07.2026

At 04:00 PM

Present: None for parties.

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ORDER

1. Vide this order, this Court proposes to decide the issue regarding right to file written statement on behalf of LR's of defendant no.3.
2. Ld. Predecessor of this Court vide order dated 17.12.2025 had allowed the application filed on behalf of plaintiff to implead the LR's of defendant no.3. Once the LR's of defendant no.3 were impleaded, the Ld. Counsel for LR's of defendant no.3 submitted that after the impleadment of the LR's of defendant no.3, the LR's of defendant no.3 have right to file written statement. In the reply to the application u/o XXII Rule 4 CPC, LR's of defendant no.3 had sought the permission to file the written statement on the ground that when one of the LR's of defendant no.3 (Archana Chawla) received the notice of the application u/o XXII Rule 4 CPC, she started to search for documents of her deceased father Sh. Darshan Lal Chawla and found out a copy of registered sale deed dated 20.11.1961 executed by deceased plaintiff Smt. Usha Rani in favour of Smt. Ram Rakhi whereby she sold two shops situated in property bearing no. XVII/2698/2 out of Khasra No.435, situated in Village Khampur, Abadi of Shadipur, Delhi. The plaintiff has concealed the fact of the said sale deed in the present suit.
3. It has been further averred that the plaintiff has concealed regarding purchase of said property by Sh. Madanlal Chawla,

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Darshanlal Chawla, Devendernath Chawla and Subhash Chandra Chawla from its erstwhile owners through a registered sale deed dated 22.08.1995. As the property was self acquired property of Sh.Madanlal Chawla, Darshanlal Chawla, Devendernath Chawla and Subhash Chandra Chawla, hence the said property cannot be partitioned amongst the legal heirs of late Sh. Ishwardas Chawla and late Smt.Sukh Devi.

4. During the course of argument on the abovestated issue, the Ld. Counsel for LR's of defendant no.3 had drawn the attention of this Court towards the provision of Order XXII Rule 4 (2) CPC which provides that "any person so made a party may make any defence appropriate to his character as legal representative of the deceased defendant". Ld. Counsel has argued that the said provision gives the opportunity to file written statement on behalf of LR of the defendant.

5. Further, the Ld. Counsel for LR's of defendant no.3 has relied upon the judgment passed in Syed Sirajul Hasan Vs. Sh. Syed Murtaza Ali Khan ILR (1992) 1 Delhi 401, Balkrishan Vs. Om Prakash and Another (1986) 4 SCC 155, Sumti Bai Vs. Paras Finance Co. (2007) 10 SCC 82. On the strength of the above provision and the judicial pronouncements, the Ld. Counsel for LR's of defendant no.3 has submitted that the LR's of defendant no.3 are entitled to file written statement as the plaintiff has concealed material facts in the plaint and

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denying the LRs of defendant no.3 opportunity of filing written statement will severely prejudice their rights.

6. Ld. Counsel for plaintiff as well as the defendant no.1 have opposed the plea of LRs of defendant no.3. It has been submitted in opposition to the plea raised by Ld. Counsel for defendant no.3 that the LRs of defendant no.3 cannot be permitted to file any written statement as the same will result in setting the clock back to the initial stage. The present suit is pending for adjudication since 2007 and the trial has already been completed. The matter is at the stage of final arguments and the parties have already filed their written submissions. Order XXII Rule 4 (2) CPC does not provide any independent right to file written statement on behalf of LRs of the deceased defendant. The Ld. Counsels for plaintiff and defendant no.1 have prayed that no such opportunity to file written statement shall be granted to the LRs of defendant no.3.

7. Arguments heard. Record perused.

8. Perusal of record shows that the present suit was originally filed before Hon'ble High Court of Delhi. Order dated 02.12.2011 reflects that the defendant no.3 was served, however, no one had appeared on his behalf. Further, time was granted to some of the defendants

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including defendant no.3 to file the written statement within the prescribed period. Since the defendant no.3 did not file written statement, he was proceeded ex parte vide order dated 26.08.2015. During the pendency of the suit, no application was ever filed on behalf of defendant no.3 to set aside the ex parte order.

9. Hon'ble High Court of Delhi in **Dabur India Ltd. Vs. Manikant Dang and Others** 2022 SCC Online Del 2579 have dealt with similar issues involved in the present suit and has held as under:-

“16. While the Bombay High Court has sought to distinguish Manju Parthi (supra) on the ground that in the said case an ex parte decree was already passed against the defendant. In my view, the fact that a decree has already been passed would not make a material difference to the dicta of Manju Parthi (supra) that merely because a person is impleaded as a legal representative of the deceased defendant, he does not have the right to put the clock back and file a separate written statement. If, in a given case, one of the defendants who had not filed a written statement, passes away at the stage of evidence and his legal heirs are impleaded, the said legal heirs cannot be permitted to file a written statement at that stage and take back the suit to the stage of pleadings. Holding otherwise would lead to absurd results and endless delays in the adjudication of the suit. Therefore, I am in respectful agreement with the view expressed in Manju Parthi (supra), Ramgopal (supra), Babulal N. Shukla (supra) and Kizhiakalathil Puthan (supra)”.

10. Further, Hon'ble High Court of Delhi in **Manju Parthi & Ors. Vs. Rohit Parthi** 2007 SCC Online Del 1491 has held as under:-

“4. For the following reasons, I locate no substance in these submissions. The law laid down in the above said authority does not dovetail with the facts of the present case. The facts of the present case are altogether different. It must be borne in mind that in this case the deceased defendant was proceeded against ex parte. He was deprived of the right to file the written statement. The petitioner has stepped into his shoes. The petitioner is not authorised to alter or amend that situation. The proceedings are to start from that stage where the same were left by his father. Merely because he is legal representative of the deceased defendant, he does not get a new right to put the clock back and file the written statement as if the case had started afresh. Procedure is not meant to hamper the cause of justice or sanctify miscarriage of justice. The only remedy open to the petitioner is to move application for setting aside the ex parte decree, if sufficient grounds exist in his favour or that of his predecessor, or, if, he has got independent right, he can move an application for impleadment nor merely as a LR of the deceased but also in his personal capacity”.

11. In the opinion of this Court, the judicial precedents cited by Ld. Counsel for the LR of defendant no.3 are not applicable to the facts of present case. The trial has already completed in the present case. In fact, the parties have also filed their written submissions. The defendant no.3 had never sought permission to file written statement

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during her lifetime. The LRs of defendant do not have any independent right to file written statement. In such a situation giving right to file written statement to the LRs of defendant no.3 who was proceeded ex parte on 26.08.2015 will set the clock back at the initial stage which will prejudice the rights of the remaining parties to the suit. Therefore, this Court is of the opinion that no such liberty can be granted to the LRs of defendant no.3 to file the written statement.

12. The matter is at the stage of final arguments.

13. The present case is one of the oldest cases of this Court. Therefore, all the parties shall address the final arguments on the next date of hearing.

14. Now to come up on 14.08.2026.

(Sunil Choudhary)
District Judge-01(West)
Tis Hazari Courts, Delhi/23.07.2026